

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**November 17, 1999**

DIVISION ONE

Court convened at 9:00 A.M.

Present: Vogel (Miriam A.), Acting P.J., Masterson, J., and C. Hon, Deputy Clerk.

Each of the following:

B134673 Louis F. v. S.C.L.A.

B134699 In re Blanca A.

Argument waived, cause submitted.

B121293     Antelope Valley Newspapers, Inc.  
                 v.  
                 Desert Mailer News

OSC:

Richard M. Ewaniszyk appeared for appellant and Michael L. Kirby for respondent. Appellant waives argument and relies on opposition filed. Court granted respondent's request to file reply. Counsel waive presence of Presiding Justice Spencer and Justice Ortega.

B117787     Osemeka  
                 v.  
                 Centinela Hospital Association

Merits:

Argued by Adrian J. Guidotti for respondent and no appearance for appellant. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

DIVISION ONE (Continued)

B126058     Allison  
               v.  
               City of El Segundo et al.

Merits:  
Argued by Ralph Rogari for appellant and by B. Derek Straatsma for respondents. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

B119303     Aradi, Ltd., et al.  
               v.  
               Mansi et al.

Merits:  
Argued by Andrew R. Haut for appellants and by Benjamin G. Shatz for respondents. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

B132593     Greene  
               v.  
               Cohn

Merits:  
Argued by Rebecca Weinstein for appellant and no appearance for respondent. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

B129887     Congregation ETZ Chaim  
               v.  
               City of Los Angeles

Merits:  
Argued by Susan Azad for appellants and by Claudia McGee Henry, City Attorney for respondent. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

DIVISION ONE (Continued)

B124523     Estate of Max Vargas, Deceased.  
              Starr  
              v.  
              Vargas

Merits:

Argued by Edward A. Hoffman for appellant and by Jeffrey Forer for respondent. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

B129582     Kim,  
              v.  
              Sun et al.

Merits:

Argued by Victor J. Daniels for appellants and by Glenn A. Besnyl for respondent. Counsel waive presence of Presiding Justice Spencer. Cause submitted.

Court adjourned.

B125723     Voce et al.  
              v.  
              City of Palos Verdes Estates et al.

Filed order denying petition for rehearing.

B130233     People  
              v.  
              Archibeque

Filed order granting petition for rehearing.

## DIVISION FOUR

B121088 People v. Joseph (Not for Publication)

The judgment is modified to reflect the imposition of a \$5,000 parole revocation fine, and as modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment accordingly.

Epstein, Acting P.J.

We concur: Hastings, J.  
Curry, J.

B128790      In re Brook A. & Kayla Q.      (Not for Publication)  
L.A. County Dept. of Children & Family Services  
v.  
Tracy Q.

The orders of the juvenile court are affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

B131462      In re Justina H. & Brenda S.      (Not for Publication)  
L.A. County Dept. of Children & Family Services  
v.  
Rebecca F.

The orders of the juvenile court are affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Dau, J. (Assigned)

DIVISION FIVE

B126425      Lawrence                  (Not for Publication)  
v.  
Huffington

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.  
Weisman, J. (Assigned)

B128267      Montefino Homeowners Association      (Not for Publication)  
v.  
Comprehensive Property Management Company, et al.

The order is affirmed. Plaintiff, Montefino Homeowners Association, is to recover its costs incurred on appeal jointly and severally from defendants, Comprehensive Property Management Company and Lloyd Duncan.

Turner, P.J.

We concur: Grignon, J.  
Godoy Perez, J.

B133529 Shonnie H. (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition for extraordinary relief is granted.

Turner, P.J.

We concur:    Armstrong, J.  
                         Godoy Perez, J.

DIVISION FIVE (Continued)

B127325      Kayretha Hale Willis      (Not for Publication)  
v.  
V.J. McAlpin, as Executor, etc.

The August 14, 1998, order denying Kayretha Hale Willis' petition for attorney's fees is affirmed. V.J. McAlpin, executor, is to recover his costs on appeal from Kayretha Hale Willis, petitioner.

Turner, P.J.

We concur:    Godoy Perez, J.  
                    Weisman, J. (Assigned)

B126064      Mendez Trucking, Inc., et al.      (Not for Publication)  
v.  
Barney & Barney, et al.

The appeal from the order of dismissal is dismissed. The appeal from the notice of entry of judgment is dismissed. The appeal from the order denying plaintiffs' reconsideration motion is dismissed. On remand, the trial court is directed to vacate its order denying plaintiffs' motion to vacate the dismissal and enter a new order declining to rule on the motion as beyond the jurisdiction of the court. Defendants, California Compensation Insurance Company, Barney & Barney, LLC, and Glen Holter, are to recover their costs on appeal, jointly and severally, from plaintiffs, Mendez Trucking, Inc., Manual Mendez, and Maria Mendez.

Turner, P.J.

We concur:    Armstrong, J.  
                    Godoy Perez, J.

## DIVISION FIVE (Continued)

B124607      People      (Not for Publication)  
v.  
Martinez

The judgment is modified as follows: Defendant is sentenced to 15 years to life for the second degree murder in count one. The enhancements imposed pursuant to section 12022.5, subdivision (a)(1), as to counts two, three, four, and five, are reversed. The cause is remanded to permit the trial court to select one of the three terms as to each of counts two, three, four, and five, and to resentence defendant on the two enhancements imposed pursuant to section 12022.5, subdivisions (a)(1) and (b)(1), as to count one. The amended abstract of judgment is further modified to reflect the restitution fines and presentence credits of 476 days, including 414 actual days plus 62 days of conduct credit. Upon resentencing and issuance of the remittitur, the clerk of the superior court is directed to forward a copy of the further amended abstract of judgment to the California Department of Corrections. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Grignon, J.  
Armstrong, J.

B126751 People (Not for Publication)  
v.  
Beavers

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.  
Armstrong, J.

## DIVISION SEVEN

B116541      People                                  (Not for Publication)  
v.  
David Missman

We reverse as to counts 22, 43, 46, 49, 58, 61, 64, 73 and 76, remand for retrial with proper instructions as to counts 8, 12, 16, 23, 45 and 47 and remand for resentencing as to count 114. The trial court is ordered to modify the judgment and sentence, including restitution orders, in accordance with the views expressed herein. In all other respects, the judgment is affirmed.

Woods, J.

We concur:   Johnson, Acting P.J.  
                      Neal, J.

B128771      **Hani Qubain**      (Not for Publication)  
v.  
**Barry Controls, Inc.**

The judgment is affirmed. Respondent to recover costs on appeal.

Woods, J.

We concur:   Lillie, P.J.  
                      Johnson, J.

B125667 People (Not for Publication)  
v.  
Jerry Thompson

The judgment is affirmed.

Woods, J.

We concur:   Johnson, Acting P.J.  
                      Neal, J.



November 17, 1999-Continued

## DIVISION SEVEN (Continued)

B127730      People      (Not for Publication)  
v.  
Timothy Lamar Thompson

The judgment is affirmed.

Woods, J.

We concur:   Johnson, Acting P.J.  
                      Neal, J.

B128451 Marine Midland Bank, N.A. (Not for Publication)  
v.  
Melvin D. Salsman

The judgment is affirmed. Appellant to bear his own costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.  
Neal, J.

B116079      John T. Lindsay      (Not for Publication)  
v.  
Colleen Brady-Drews et al.

The order granting summary judgment on count 6 is reversed. The order granting summary judgment as to counts 1-5 is affirmed and the cause is remanded for further proceedings consistent with this opinion. Appellant to recover his costs on appeal.

Johnson, J

We concur: Lillie, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B122655      Mary Flores      (Not for Publication)

v.

Phillips College of Los Angeles, Inc., et al.

Arnold L. Kupetz

The judgment of the trial court is reversed and the cause remanded with instructions the trial court vacate the denial of the trustee's motion to substitute as the plaintiff and to enter an order allowing the trustee to act as the plaintiff in the Motion to Set Aside the Dismissal. Appellant to receive its costs on appeal.

Johnson, J.

We concur: Lillie, P.J.

Neal, J.

B125701      People      (Not for Publication)

v.

Ricky D.

The order under review is affirmed.

Johnson, J.

We concur: Lillie, P.J.

Neal, J.

B127045      People      (Not for Publication)

v.

Jerry J. Millsaps

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.

Neal, J.

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.  
Woods, J.

B127269 People (Not for Publication)  
v.  
Rafael Torres

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.  
Woods, J.

B126053      Mark Blaustein                      (Not for Publication)  
v.  
Raymond H. Dracoules

The judgment is affirmed. Respondent shall recover his costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Johnson, J.

DIVISION SEVEN (Continued)

B128445      Los Angeles County, D.C.F.S.      (Not for Publication)  
                 v.  
                 Lisa L.

The judgment is affirmed.

Neal, J.

We concur:   Lillie, P.J.  
                 Johnson, J.

B127604      David S. Mason      (Not for Publication)  
                 v.  
                 County of Los Angeles et al.  
                 Zentmyer Properties II, LLC

The appeal is dismissed. Respondents shall recover their costs on appeal.

Neal, J.

We concur:   Johnson, Acting P.J.  
                 Woods, J.

B130944      People      (Not for Publication)  
                 v.  
                 Leland C.

The judgment is reversed.

Neal, J.

We concur:   Lillie, P.J.  
                 Johnson, J.

## DIVISION SEVEN (Continued)

B122171      People  
v.  
Thomas Henderson

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B134502 American Motorists Insurance Company (Not for Publication)  
v.  
S.C.L.A.  
Montrose Chemical Corporation of California

The petition for writ of mandate is denied. Montrose's motion for sanctions is granted. Montrose is awarded \$10,440.00 in attorney fees and costs to be paid by AMICO and its attorneys of record. In addition, we impose further sanctions payable to the clerk of this court in the amount of \$3,000.00 for costs incurred in processing the frivolous petition. (See *Collison & Kaplan v. Hartunian* (1994) 21 Cal.App.4th 1611, 1621)

Johnson, J.

We concur: Lillie, P.J.  
Woods, J.